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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,234	02/01/2002	Jean-Louis H. Gueret	05725.1017-00	8084

7590

09/02/2003

Thomas L. Irving  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
1300 I Street, N.W.  
Washington, DC 20005-3315

EXAMINER

LE, HUYEN D

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

10/060,234

Applicant(s)

GUERET, JEAN-LOUIS H.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-214 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17,22-51,60-67,70-91,96-123,132-141,144-164,169-194 and 203-212 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 7. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species III, Figures 3A-3D, 4 and 5 in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Currently, claims 1-17, 22-51, 60-67, 70-91, 96-123, 132-141, 144-164, 169-194 and 203-212 read on the elected species III. Therefore, claims 18-21, 52-59, 68, 69, 92-95, 124-131, 142, 143, 165-168, 195-202, 213 and 214 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to the nonelected species.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-17, 22-28, 36-51, 60-67, 70-76, 78-91, 96-101, 109-123, 132-141, 144-149, 151-164, 169-174, 182-194, 203-212 are rejected under 35 U.S.C. 102(b) as being anticipated by Wojcik et al (4,893,956).

The Wojcik et al reference discloses an application device comprising a first portion 10 having an impermeable surface, ; a second portion 46 moveable with respect to the first portion 10, wherein the first portion 10 and the second portion define a substantially closed reservoir when the device is in the closed position; and an applicator member 29 being partially compressible, when the device is in the closed position, the application member is at least

Art Unit: 3751

partially compressed inside the closed reservoir and, when the device is from the closed position to the open position, the application member becomes uncompressed.

5. Claims 1-17, 22-51, 60-67, 70-91, 96-123, 132-141, 144-164, 169-194, 203-212 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (4,896,768).

The Anderson et al reference discloses an application device comprising a first portion 16 having an impermeable surface, ; a second portion 12 moveable with respect to the first portion 16, wherein the first portion 16 and the second portion 12 define a substantially closed reservoir when the device is in the closed position; and an applicator member 14 being partially compressible, when the device is in the closed position, the application member 14 is at least partially compressed inside the closed reservoir and, when the device is from the closed position to the open position, the application member 14 becomes uncompressed.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Doyle, Gulko, Willcox, Laipply, Gammons and Jovis show applicator devices having first portion, second portions and applicator member attached to the second portions.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7766 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Application/Control Number: 10/060,234

Page 4

Art Unit: 3751

HL

August 25, 2003

A handwritten signature in cursive script that reads "Michael Mar".

MICHAEL MAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Continuation of Disposition of Claims: Claims withdrawn from consideration are 18-21,52-59,68,69,92-95,124-131,142,143,165-168,195-202,213 and 214.